

TO THE AMOUNT OF HAMS THAT THEY SUPPOSEDLY SUPPORT. THIS GIVES THEM SOME INFLUENTIAL POWER TO CHANGE HAM RADIO TO THEIR INFINITE PLAN. IF YOU WOULD TAKE THE TIME TO TALK TO ANY PAYROLL REPRESENTATIVE YOU WILL FIND THIS ALL TO BE TRUE. I AM MERELY SCRATCHING THE SURFACE OF WHAT I BELIEVE TO BE THEIR More? (Y,n,c) INFINITE PLAN. ENOUGH OF THE LEAGUE FOR NOW....

COMMERCIAL INDUSTRY HAS PRESSURED WASHINGTON FOR MANY YEARS TO DEREGULATE AMATEUR RADIO IN ORDER TO SELL THEIR PRODUCTS TO A WIDER CUSTOMER BASE. THEIR EFFORTS OBVIOUSLY OF LATE HAVE BEEN PAYING OFF. THIS IS THE NUMBER ONE REASON FOR THE DISTRUCTION OF HAM RADIO AND THE NON ENLIGHTENED IGNORANT GEEKS THAT HELP SUPPORT IT.

I WOULD LIKE TO TAKE THIS TIME TO EXPRESS MYSELF TO ALL THE GEEK SYSOPS WHO HAVE BECOME LITTLE HITLERS IN THEIR LITTLE WHITE VIRGIN WORLD. YOU MAY LOCK ME OUT BUT YOU CANNOT STOP ME FROM SENDING OUT THE TRUTH AND EXPRESSING (((MY VIEWS AND OPINIONS))). EVEN SOME SURVIVED ""OUSCHFITS"".

IN CLOSING, I WOULD LIKE TO SAY THIS IS STILL AMERICA BUT I FEAR ONE DAY I WILL WAKE UP AND FIND FOOT SOLDIERS STANDING AT MY BED WEARING ARRL INSIGNIAS ON THEIR SHIRTS.

P.S. IF YOU WOULD LIKE TO RESPOND TO ANY OF MY MESSAGES, PLEASE SEND BY REGULAR US MAIL AS THE GEEK SYSOPS ARE KILLING ALL MY INCOMING SUPPORTIVE More? (Y,n,c) y MESSAGES.

### APPENDIX III

A series of recent actions by the Federal Communications Commission regarding a no-code waiver for handicapped amateurs under the Americans with Disabilities Act has on legal grounds weakened both amateurs' and FCC's ability to withstand a challenge from mentally as well as motion handicapped individuals for a waiver of requirements for both Morse Code and theory. This condition has been brought about because of various technical inconsistencies in the FCC decision-making process, which will not go unnoticed by legal representatives of said handicapped individuals in any future judicial proceedings.

In easing Morse Code requirements for the disabled in late 1990, PRB Chief John Johnston said (see QST magazine, September 1990, p. 60):

"While the no-code Communicator issue is the foremost topic in Amateur Radio right now, there is another issue involving the code that has a full head of steam at the Commission. The interest on Capitol Hill for handicapped persons has reached the Commission and there is renewed concern about the degree of accommodation provided in license examinations for handicapped people....three persons, moreover, have filed discrimination complaints under the Disability and Rehabilitation Act...in many cases, these persons would be an asset to your service...in practically all cases, moreover, the pleasure they would receive from Amateur radio would greatly improve the quality of their lives."

*Fact 1:* The driving force behind the Americans with Disabilities Act concerned employability in the marketplace, not concern of vocational hobbies, and there is no evidence Congress was cognizant of the Act's place as regards the Amateur Radio Service except on the part of the Commission to bring it to the attention of Congress.

*Fact 2:* No evidence was provided, and no evidence exists presently, that any judicial body would at any time grant a class-action suit on the behalf of handicapped persons for waiver of license requirements. In the case of driver's automobile licensing, for example, the judicial body could demand accommodation for passing existing requirements, but there is no evidence it would rule a waiver of those requirements. The Commission did not show any clear danger existed from any class-action suit, again suggesting that the Commission in this case simply utilized the convenience of the Americans with Disabilities Act to pursue its stated 1984 goal to bring the no-code license to amateur radio.

*Fact 3:* The view expressed by Mr. Johnston that participation by handicapped people in the Amateur Radio Service would improve the quality of their lives is laudable. However, it opens the door to a waiver of requirements for technical qualifications. Indeed, persons may be motion handicapped, or mentally handicapped; handicapped is handicapped, and there is no indication that the Commission has the power to arbitrarily and capriciously separate one handicap from another in granting a no-code waiver, but denying a no-theory waiver. Any Commission decision in attempting to do so, given the decision it initially rendered on the no-code waiver, would in fact be untenable before a judicial body. Further, Part 97.1 of the radio amateur's code states the guidelines and goals of the Amateur Radio Service; unfortunately, it makes no mention of the

need to improve the amateur's life.

**Fact 4:** Disabled persons may well indeed be an asset to our service, as stated by Mr. Johnston. However, the opinions of Mr. Johnston were delivered in a way that appears to represent the official view of the Commission. If so, there is again support for the view that the Commission acted solely to deliver this change, particularly in light of the Commission's role in the no-code movement. Indeed, no substantiated evidence was ever provided by the Commission that the change was supported by even a plurality of the Amateur community, especially handicapped amateurs, who have called their own self-dignity and self-worth into question.

**Fact 5:** The new FCC policy regarding waivers of technical requirements for the handicapped was a reversal of previous FCC policy. That policy was established by the FCC, which is not bound by the decisions of, and has no allegiance to, Congress. Thus, the Commission's statement implying the power of Congress on FCC decision-making is at odds with the facts regarding FCC's authority in this issue. Once again, the available evidence indicates that FCC acted solely within the convenience of the American with Disabilities Act, to establish a no-code waiver for handicapped individuals.

Of particular note in regard to *Fact 2*, the FCC in late 1991 affirmed a decision of the Private Radio Bureau to deny a class-action civil-rights complaint of discrimination against disabled persons seeking amateur licenses (QST Magazine, November 1991, p. 72).

**Fact 6:** Clearly, the Commission is unaware that:

(a) Given their previous statements regarding the filing of complaints of discrimination and the implied threat of class-action law suits, which implied the Commission was helpless to rule against the no-code proposal, the Commission does not have legal jurisdiction to grant or deny any class-action complaint on issues of discrimination; that responsibility lies with the Courts.

(b) Once again, it would not be within the PRB's jurisdiction, if challenged, to determine that a physical handicap provides suitable grounds for the waiving of Morse Code requirements, while at the same time ruling a mental handicap does not provide suitable grounds for the waiving of theory requirements.

Certainly, this Appendix is not intended as an indictment of those individuals who are unfortunately mentally or physically handicapped. However, it does call to question inconsistencies and technical weaknesses in FCC actions related to the Commission's goal to bring a no-code license with eased theory requirements to amateur radio. It also calls to question amateurs' ability to justify their frequencies as a technical hobby, whether or not related to the handicapped. Finally, with regard to the mentally handicapped, it is doubtful, given the history and aforementioned FCC actions on this issue, that any FCC decision to deny a no-theory waiver would survive a legal challenge.